IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMM.SUIT NO.2024 OF 2001

M/s Primeast Investments Ltd... Plaintiff

versus

1.M/s Pasara Dyeing & Prin. Mills P.Ltd and others. .. Defendants

Mr A.S.Pandey for Plaintiff

CORAM : D.G. KARNIK, J

DATED : 19th April 2005.

P.C.

1. Heard learned counsel for the plaintiff. None present for the defendant though served. Perused the affidavit of service dated 17th September, 2004. Despite service the defendant has not filed an appearance. The plaintiff is entitled to a decree under order 37 Rule 2 (3) of the Code of Civil Procedure.

2. The plaintiff has produced on record the original documents along with the list on 24th January, 2005. The documents are collectivelly marked Exhibit A.

Learned counsel for the plaintiff hands in the additional list of original documents dated 19th April, 2005. The documents are taken on record and marked Exhibit B.

3. I have perused the plaint and the documents filed on record. Under a hire purchase agreement the defendant no. 1 borrowed a sum of Rs.15,00,000/- and executed hire purchase agreement. The defendant nos. 2 and 3 guaranteed the payment. The plaintiff has filed this suit for recovery of the money due under the hire purchase agreement.

4. Since the defendants have not filed an appearance nor denied the liability to pay, the averments made in the plaint are deemed to be accepted. The plaintiff is entitled to a decree. Accordingly, suit of the plaintiff is decreed as follows :

> " The defendants shall pay to the plaintiff sum of Rs.34,98,975.92 together with interest at 9% p.a from the date of the suit till payment and all costs of the suit. Issue court fee refund certificate as per rules. "

D.G.KARNIK, J